

# Notice of Allowability

Application No.

09/295,925

Examiner

Joseph T. Voitach

Applicant(s)

JOSHI ET AL.

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to August 24, 2004.
2. ☒ The allowed claim(s) is/are 1-5, 7-10, 12 and 46.
3. ☒ The drawings filed on 4/21/1999 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Art Unit: 1632

### **DETAILED ACTION**

This application filed April 21, 1999 claims benefit to provisional applications: 60/028,665, filed April 22, 1998; 60/111,653, filed December 9, 1998; and 60/111,637, filed December 9, 1998.

Applicants' amendment filed August 24, 2004, has been received and entered. Claim 5 has been amended. Claim 6, 11, 13-45 have been cancelled. Claims 1-5, 7-10, 12 and 46 are pending and currently under examination.

### ***Election/Restriction***

Applicants' election made March 9, 2000, paper number 9, was made with traverse. Claims 13-45 drawn to the non-elected inventions have been cancelled. Pending claims 1-5, 7-10, 12 and 46 are drawn to the elected invention.

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

As indicated previously, claims 1, 7-10, 12 and 46 were allowed. Upon consideration of Applicants' arguments and in light of the information in the supporting references of Bernhard *et al.* and Hwang *et al.* Specifically, claims 2-5 were rejected under 35 U.S.C. 112, first paragraph, because the art of record indicated that cell cycle synchronization with ionizing radiation would result in G2 arrest, not at other points in the cell cycle as specifically claimed in claims 2-5. Bernhard *et al.* and Hwang *et al.* provide evidence that at the time of filing it was recognized that ionizing radiation can be

Art Unit: 1632

used to affect cell cycle progression at various points in the cell cycle, including those of claims 2-5.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Woitach whose telephone number is (571) 272-0739.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Reynolds, can be reached at (571) 272-0734.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group analyst Dianiece Jacobs whose telephone number is (571) 272-0532.

Joseph T. Woitach

JOSEPH WOITACH  
PATENT EXAMINER

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